

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

MDL 2672 CRB (JSC)

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT,
PROVISIONALLY CERTIFYING
CLASS, DIRECTING NOTICE TO THE
CLASS, AND SCHEDULING
FAIRNESS HEARING**

This Documents Relates to:

ALL CONSUMER AND RESELLER
ACTIONS

Hearing: July 26, 2016
Time: 8:00 a.m.
Courtroom: 6, 17th floor

The Honorable Charles R. Breyer

WHEREAS, a proposed settlement (the “Settlement” or “Class Action Settlement”) has been reached between Court-appointed Lead Counsel and the Plaintiffs’ Steering Committee (“PSC”) on behalf of a defined proposed Settlement Class of certain Volkswagen and Audi branded 2.0-liter TDI vehicles defined in the Class Action Settlement, and Volkswagen AG, Audi AG, and Volkswagen Group of America, Inc. (d/b/a Volkswagen of America, Inc. or Audi of America, Inc.) (collectively, “Volkswagen”), which resolves certain claims against Volkswagen pertaining to the Volkswagen and Audi branded “Eligible Vehicles,” listed below;

| VOLKSWAGEN | |
|----------------------------|-----------------|
| MODEL | MODEL YEARS |
| Beetle, Beetle Convertible | 2013-2015 |
| Golf 2-Door | 2010-2013 |
| Golf 4-Door | 2010-2015 |
| Golf SportWagen | 2015 |
| Jetta, Jetta SportWagen | 2009-2015 |
| Passat | 2012-2015 |
| AUDI | |
| A3 | 2010-2013, 2015 |

WHEREAS, Volkswagen has also entered related agreements with the United States Department of Justice (“DOJ”) on behalf of the Environmental Protection Agency (“EPA”), the Federal Trade Commission (“FTC”), and the State of California by and through the California Air Resources Board (“CARB”) and California’s Office of the Attorney General (“CA AG”);

WHEREAS, the Court, for the purposes of this Order, adopts all defined terms as set forth in the Class Action Settlement;

WHEREAS, this matter has come before the Court pursuant to Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement and Approval of Class Notice (the “Motion”);

WHEREAS, Volkswagen does not oppose the Court’s entry of the proposed Preliminary Approval Order;

WHEREAS, the Court finds that it has jurisdiction over the Action and each of the Parties for purposes of settlement and asserts jurisdiction over the Settlement Class Representatives for purposes of considering and effectuating this Settlement;

WHEREAS, the Court held a Preliminary Approval Hearing on July 26, 2016; and

WHEREAS, this Court has considered all of the submissions related to the Motion and, having presided over and managed the MDL proceedings as Transferee Judge, the Preliminary Approval Hearing, and is otherwise fully advised of all relevant facts in connection therewith.

IT IS HEREBY ORDERED AS FOLLOWS:

I. PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

1. The Settlement appears to be the product of intensive, thorough, serious, informed, and non-collusive negotiations overseen by the Court-appointed Special Master and former Director of the Federal Bureau of Investigation Robert S. Mueller, III; has no obvious

deficiencies; does not improperly grant preferential treatment to the Settlement Class Representatives or segments of the Class; and appears to be fair, reasonable, and adequate, such that preliminary approval of the Settlement should be granted, notice of the Settlement should be directed to the Class Members, and a Fairness Hearing should be set.

2. Accordingly, the Motion is GRANTED.

II. THE CLASS, CLASS REPRESENTATIVES, AND CLASS COUNSEL

3. The Court provisionally certifies, for settlement purposes only, under Fed. R. Civ. P. 23(a), 23(b)(3), and 23(e) of the Federal Rules of Civil Procedure, the following Settlement Class (the “Class”), defined under Rule 23(c)(1)(B) as follows: A nationwide class of all persons (including individuals and entities) who, on September 18, 2015, were registered owners or lessees of an Eligible Vehicle, or who, between September 18, 2015, and the end of the Claim Period, become a registered owner of an Eligible Vehicle. The following entities and individuals are excluded from the Class:

(a) Owners who acquired ownership of their Eligible Vehicles after September 18, 2015, and transfer title before participating in the Settlement Program through a Buyback or an Approved Emissions Modification;

(b) Lessees of an Eligible Vehicle that is leased from a leasing company other than VW Credit, Inc.;

(c) Owners whose Eligible Vehicle (i) could not be driven under the power of its own 2.0-liter TDI engine on June 28, 2016, or (ii) had a Branded Title of Assembled, Dismantled, Flood, Junk, Rebuilt, Reconstructed, or Salvage on September 18, 2015, and was acquired from a junkyard or salvage yard after September 18, 2015;

(d) Owners who sell or otherwise transfer ownership of their Eligible Vehicle between June 28, 2016, and September 16, 2016 (the “Opt-Out Deadline”), inclusive of those dates;

(e) Volkswagen’s officers, directors and employees and participants in Volkswagen’s Internal Lease Program; Volkswagen’s affiliates and affiliates’ officers, directors and employees; their distributors and distributors’ officers, directors and employees; and Volkswagen Dealers and Volkswagen Dealers’ officers and directors;

(f) Judicial officers and their immediate family members and associated court staff assigned to this case; and

(g) All those otherwise in the Class who or which timely and properly exclude themselves from the Class as provided in the Class Action Settlement.

4. The Court preliminarily finds that claims of the proposed Settlement Class Representatives are typical of the claims of the Class under Rule 23(a)(3), and that they have and will fairly and adequately represent the interests of the Class under Rule 23(a)(4), and hereby designates as Settlement Class Representatives the proposed representatives identified in the Motion.

5. The Court preliminarily finds that the Lead Counsel and the PSC will fairly and adequately represent the interests of the Class under Rule 23(a)(4), have done so, and are adequate under Rule 23(g)(1) and (4), and, therefore, hereby appoints Lead Counsel and the PSC as Settlement Class Counsel, under Rules 23(c)(1)(B) and 23(g) to implement and complete the Settlement Approval Process.

III. NOTICE TO CLASS MEMBERS

6. Under Rule 23(c)(2), the Court finds that the content, format, and method of disseminating Notice, as set forth in the Motion, the Declaration of Shannon Wheatman, and the Class Action Settlement—including direct First Class mailed notice to all known Class Members and an extensive and targeted publication campaign—is the best notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B). The Court approves such notice, and hereby directs that such notice be disseminated in the manner set forth in the Class Action Settlement to Class Members under Rule 23(e)(1).

IV. SCHEDULE AND PROCEDURES FOR DISSEMINATING NOTICE, FILING CLAIMS, REQUESTING EXCLUSION FROM THE CLASS, FILING OBJECTIONS TO THE CLASS ACTION SETTLEMENT, AND FILING THE MOTION FOR FINAL APPROVAL

| Date | Event |
|---------------|-------------------------------------------------------------------------------------|
| June 28, 2016 | Settlement Class Representatives file Motion for Preliminary Approval of Settlement |

| | |
|--------------------------------------|-------------------------------------------------------------------------------------------------|
| June 30, 2016 | Status Conference with the Court |
| July 5, 2016 | Volkswagen provides Class Action Fairness Act Notice to State Attorneys General |
| July 26, 2016 | Preliminary Approval Hearing |
| July 27, 2016 | Class Notice Program begins |
| August 19, 2016 | Class Notice Program ends |
| August 26, 2016 | Motion for Final Approval filed |
| September 16, 2016 | Objection and Opt-Out Deadline |
| September 16, 2016 | End of Eligible Seller Identification Period |
| September 29, 2016 | Deadline for State Attorneys General to file Comments/Objections to this Class Action Agreement |
| September 30, 2016 | Reply Memorandum in Support of Final Approval filed |
| October 3, 2016 – October 7, 2016 | Final Approval Hearing [Date TBD by Court] |

V. FAIRNESS HEARING

7. The Fairness Hearing shall take place at [_____] on [_____] at the United States District Court for the Northern District of California, United States Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, before the Honorable Charles R. Breyer, to determine whether the proposed Class Action Settlement is fair, reasonable, and adequate, whether it should be finally approved by the Court, and whether the Released Claims should be dismissed with prejudice under the Class Action Settlement and the Notice Program.

VI. OTHER PROVISIONS

8. Settlement Class Counsel and Volkswagen are authorized to take, without further Court approval, all necessary and appropriate steps to implement the Class Action Settlement including the approved Notice Program.

9. The deadlines set forth in this Preliminary Approval Order, including, but not limited to, adjourning the Fairness Hearing, may be extended by Order of the Court, for good

1 cause shown, without further notice to the Class Members, except that notice of any such
2 extensions shall be included on the Settlement Website. Class Members should check the
3 Settlement Website regularly for updates and further details regarding extensions of these
4 deadlines.

5 10. Pending the final determination of whether the Settlement should be approved,
6 each Class Member, and any person purportedly acting on behalf of any Class Member or Class
7 Members, is hereby enjoined from commencing, pursuing, maintaining, enforcing or prosecuting,
8 either directly or indirectly, any Released Claims in any judicial, administrative, regulatory,
9 arbitral or other proceeding, in any jurisdiction or forum, against any of the Released Parties.
10 Such injunction shall remain in force until the day after the Opt-Out Deadline, or until such time
11 as the Parties notify the Court that the Settlement has been terminated. Nothing herein shall
12 prevent any Class Member, or any person actually or purportedly acting on behalf of any Class
13 Member(s), from taking any actions to stay and/or dismiss his, her or its Released Claims. This
14 injunction is necessary to protect and effectuate the Settlement approval process, this Order, and
15 this Court's flexibility and authority to effectuate this Settlement and to enter judgment when
16 appropriate, and is ordered in aid of this Court's jurisdiction and to protect its judgments pursuant
17 to 28 U.S.C. § 1651(a).

18 11. Class Counsel and Defendants' Counsel are hereby authorized to use all
19 reasonable procedures in connection with approval and administration of the Class Action
20 Settlement that are not materially inconsistent with the Preliminary Approval Order or the Class
21 Action Settlement, including making, without further approval of the Court, minor changes to the
22 Class Action Settlement, to the form or content of the Class Notice, or to any other exhibits that
23 the Parties jointly agree are reasonable or necessary.

24 12. The Court shall maintain continuing jurisdiction over these proceedings for the
25 benefit of the Class as defined in this Order.

26 13. Because the Class Action Settlement does not resolve all claims asserted in the
27 Action, there shall be no stay or suspension of the Action against any Defendants, including
28 Volkswagen.

1 IT IS SO ORDERED.

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3 DATED:

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5 CHARLES R. BREYER
6 UNITED STATES DISTRICT JUDGE
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